

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

S.C.WANG,

No. C07-00307 MJJ

Plaintiff,

**ORDER DISMISSING CASE FOR
FAILURE TO PROSECUTE**

v.

STATE OF CALIFORNIA,

Defendant.

The Court hereby **DISMISSES** this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) because Plaintiff has failed to file an amended complaint.

A plaintiff has a general duty to prosecute his case. *Fidelity Philadelphia Trust Co. v. Pioche Mines Consolidated, Inc.*, 587 F.2d 27, 29 (9th Cir.1978). In determining whether to dismiss an action for lack of prosecution, the district court is required to weigh several factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits and (5) the availability of less drastic sanctions.” *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988).

On January 17, 2007, S.C. Wang (“Plaintiff”) filed a complaint and application to proceed in forma pauperis.¹ On February 17, 2007, this Court dismissed the complaint *sua sponte* with leave to


¹Docket No. 1.

1 amend because Plaintiff's complaint failed to state a cause of action.² Plaintiff has not yet filed an
2 amended complaint. The Court's need to manage its docket weighs in favor of dismissing this
3 action.

4 Accordingly, Plaintiff's action is **DISMISSED WITHOUT PREJUDICE** for failure to
5 prosecute pursuant to Federal Rule of Civil Procedure 41(b). The clerk of the court is directed to
6 close the file.

7 **IT IS SO ORDERED.**

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10 Dated: April 4, 2007



MARTIN J. JENKINS
UNITED STATES DISTRICT JUDGE

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2²Docket No. 4.